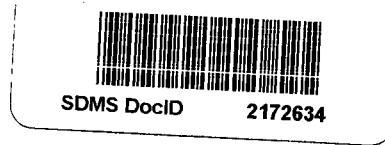


# McGRATH NORTH

ATTORNEYS AT LAW

**CBI ORIGINAL**

STEVEN P. CASE



Phone (402) 341-3070  
Fax (402) 952-1879  
E-mail [scase@mcgrathnorth.com](mailto:scase@mcgrathnorth.com)

August 21, 2013

*Via Federal Express*

Carlyn Winter Prisk  
US EPA, Region 3  
Mail Code 3HS62  
1650 Arch St.  
Philadelphia, PA 19103-2029

Re: Information Request  
Lower Darby Creek Area Superfund Site  
Operable Unit 1-Clearview Landfill  
Darby Township, Delaware County and Philadelphia, PA

Dear Ms. Prisk:

Enclosed is ConAgra Foods, Inc.'s (ConAgra) supplemental response to the above-referenced Information Request.

Pursuant to 42 U.S.C. §9604(e)(7)(E) and (F) ConAgra requests confidential treatment for those documents stamped "Confidential" and containing a cover page with the following statement: "ConAgra asserts confidentiality claim covering the attached information pursuant to Sections 104(7)(E) and (F) of CERCLA, 42 U.S.C. §9604(e)(7)(E) and (F), and 40 CFR - §2.203(b). This information is identified as "Trade Secret, Proprietary, and Company Confidential." This request is based on the fact that ConAgra has not disclosed such information to other persons; the information is not required to be disclosed, or otherwise made available, to the public under federal or state law, and; disclosure of the information is likely to cause substantial harm to the competitive position of ConAgra.

Please contact me if you have any questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to be "SPC", written over a horizontal line.

Steven P. Case

SPC:pb

Lower Darby Creek Area Superfund Site  
Operable Unit 1-Clearview Landfill  
Darby Township, Delaware County and Philadelphia, PA

ConAgra Foods, Inc.'s Supplemental Response to the Information Request  
General Responses and Objections

- A. The general responses and objections submitted in ConAgra's response to the Information Request, under cover letter dated July 29, 2013, are incorporated by reference herein.

Information Request

15. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:
- a. Your document retention policy;
  - b. A description of how the records were/are destroyed (burned, archived, trashed, etc.) and the approximate date of the destruction;
  - c. A description of the type of information that would have been contained in the documents; and
  - d. The name, job title, and most current address known to you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.

Response:

ConAgra has located no documents to provide in response to those requested by the Information Request, that would be in addition to those provided in ConAgra's original response provided under cover letter dated July 29, 2013. By way of explanation, we note that documents requested by Requests 7, 9 and 11 relate to matters between 1958 and 1976, or thereabout. In addition to this being approximately 37 years ago or more, this was also prior to ConAgra's acquisition of Goodmark in 1998 (See Response to Request No. 1). Enclosed are ConAgra's current records retention guidelines. This document is "Trade Secret, Proprietary and Company Confidential," has been marked "Confidential," and ConAgra requests it be maintained as such.

Lower Darby Creek Area Superfund Site  
Operable Unit 1-Clearview Landfill  
Darby Township, Delaware County and Philadelphia, PA

ConAgra asserts confidentiality claim covering the attached information pursuant to Sections 104(7)(E) and (F) of CERCLA, 42 U.S.C. §9604(e)(7)(E) and (F), and 40 CFR - §2.203(b). This information is identified as "Trade Secret, Proprietary, and Company Confidential."

**TITLE:** Records Management Policy

**PURPOSE:** To establish guidelines for the management, retention and disposal of all Company records.

**SCOPE:** All ConAgra Foods locations.

**EFFECTIVE**

**DATE:** February 14, 2007

**REVISED:** September 9, 2010

**I. Introduction and Policy Statements**

The following represent ConAgra Foods, Inc.'s ("ConAgra") guiding principles with respect to the management, retention, and disposal of electronic and physical Company records:

- Comply with all statutory, regulatory and Company Policy requirements
- Retain only those records reasonably necessary to promote and maintain effectiveness of business enterprise
- Store records in the most efficient and cost effective medium
- Make records retained identifiable, retrievable and trackable through disposal
- Eliminate unnecessary, superfluous and duplicate records and record sources
- Dispose of records promptly when retention is no longer required

This policy will complement the Electronic Communications Policy already in effect.

**II. Responsibilities**

This Policy is owned and maintained by the Corporate Legal office. All ConAgra employees and contractors are responsible for following this Policy unless otherwise directed by legal counsel. Adherence to this Policy will be viewed as a component of every employee's job performance and appropriate steps will be taken if an employee fails to comply. Compliance with this Policy will be achieved through the Company's new employee orientation program and monitored through the Internal Audit function.

No ConAgra employee or contractor may delete, dispose of or destroy any record unless such action is in compliance with this Policy.

**III. Records Retention Guidelines**

The Company's Records Retention Guidelines (available below via "hot-link") provide a complete listing of all categories of official business records that the organization maintains. In addition, the Guidelines establish the periods of authorized retention. Beginning at the conclusion of **each fiscal year** and by July 1 every department or group will permanently destroy records within their functional area that have reached their final retention period.

The Guidelines will be reviewed annually and may be revised periodically to include a newly created record series, to change retention periods, or delete a record series no longer useful. Appropriate

approval procedures must be followed before any revisions will become effective and any such changes must be approved by ConAgra Foods' Chief Litigation Counsel or Corporate Records Manager in writing.

All physical records identified for destruction pursuant to this Policy **must be shredded** instead of simply discarding them in garbage or recycling receptacles. All personal electronic records identified for destruction should be promptly deleted from local computer systems. Network and application based data will continue to be managed by corporate Information Technology for records management purposes. Retention and disposition of e-mail will continue to be as directed by the Electronic Communications Policy and E-Mail Retention Policy which are companions to this Policy.

Duplicate files, duplicate records, notes, memos, drafts, library material and stocks of obsolete forms or pamphlets originally intended for distribution are not considered to be official business records or record copies. These documents should be destroyed when they cease to be useful and should never be kept longer than the official record copy. In addition, e-mail and related electronic communication is not considered an official business record or record copy. Emails should be maintained in the company's Email systems. Any email that must be removed from the system environment or is printed must be reviewed annually as required by this Policy and be destroyed when it is no longer useful.

#### **IV. Off-Site Records Storage**

Any new request for third-party off-site storage of business records (physical or electronic) must be coordinated through Mail Services. To the extent Iron Mountain is chosen for new storage needs or if records must be called up from an Iron Mountain location, a Record Procedures form must be completed and submitted to Mail Services before off-site storage commences or business records are recalled. Any other third-party off-site records storage related request must likewise be coordinated through Mail Services.

#### **V. Legal Hold Procedure**

The Legal Department may require suspension of this Policy in order to preserve records to comply with a regulatory or litigation related requirement. Legal holds will be as directed by the Chief Litigation Counsel or Corporate Records Manager. An employee that becomes aware of the potential need for records in the future (as a result of a Subpoena, claim or dispute) must promptly inform the Chief Litigation Counsel or Corporate Records Manager.

#### **VI. Exceptions**

Any exception to this Policy must receive written approval by the Chief Litigation Counsel or Corporate Records Manager or his/her designee. The exception will include a signed statement acknowledging all risks associated with non-compliance. This includes any exceptions directed by legal counsel.

Questions about this Policy should be directed to your supervisor or the Legal Department. Since failure to follow this Policy may result in criminal penalties or adverse treatment in litigation, violations should be immediately reported to the Chief Litigation Counsel or Corporate Records Manager.

# CONFIDENTIAL

RECORDS RETENTION GUIDELINES	
Effective: February 13, 2007	
Updated: November 26, 2012	
Series Description	Retention Period
<b>A. FINANCIAL RECORDS</b>	
Accounts Payable	Fiscal Year + 7
Accounts Receivable	Fiscal Year + 7
Bank Statements/ Reconciliations/ Checks/ Registers	Fiscal Year + 7
Bond and Other Outstanding Debt Documentation	Active + 7
Cash Receipt Books/ Registers	Fiscal Year + 7
Cost Accounting Records	Fiscal Year + 7
Depreciation Schedules	FY of Dispo. + 7
Dividend Register	6 Years
Financial Statements (Certified)	Permanent
Financial Statements (Internal)	Fiscal Year + 7
Financial Workpapers (accounting records, schedules and backup)	Fiscal Year + 7
Fixed Asset Register/ Related Documents (including vendor invoices, FAS13, etc.)	FY of Dispo. + 7
General Journal Entries/ GL	Permanent
Federal Income Tax Returns/ RAR's/ Protests/Documents Related to Basis	Life of Asset + 7
Internal Audit Reports and Supporting Workpapers (includes external audits and SOX compliance audits)	Fiscal Year + 7
International Tax Returns/RAR's/Protests/Documents Related to Basis	Life of Asset + 7
Letters of Credit	Active + 6
Merger/Acquisition/Divestiture - G/L Records	FY of Dispo. + 7
Merger/Acquisition/Divestiture - All Other Accounting Records	Fiscal Year + 7
Petty Cash Records	Fiscal Year + 7
Perpetual Inventory Records	Fiscal Year + 7
Physical Inventory Records	Fiscal Year + 7
Property Tax Basis/Payments (including property tax packages)	Fiscal Year + 7
Purchase and Sale Records (i.e. PO's, invoices, a/p, a/r, bills of lading, shipping papers, waybills)	Fiscal Year + 7
SEC Reports (including P&L, B/S and annual and quarterly reports)	Fiscal Year + 7
Sales/Use/Excise Tax Returns	Fiscal Year + 7
Sales/Use Tax Exemption Certificates and Tax Permits	Fiscal Year + 7
State and local tax returns/RAR's/Protests	Fiscal Year + 7
Tax Workpapers (supporting tax returns, audits, incentives, transactions, etc.)	Fiscal Year + 7 Supporting Basis - Life of Asset + 7
Travel & Entertainment Records	Fiscal Year + 7
Wire Requests/ Transfers	Fiscal Year + 7
All Other Accounting and Tax Documents Not Specifically Described Above	Fiscal Year + 7

# CONFIDENTIAL

RECORDS RETENTION GUIDELINES	
Effective: February 13, 2007	
Updated: November 26, 2012	
Series Description	Retention Period
<b>B. CORPORATE RECORDS</b>	
Appropriations (CIR's)	5 Years 10 Years on Board CIR's
Strategic Plans	3 Years
Financial Plans (Annual Operating Plan) and Reports (General)	3 Years
Forecasts	3 Years
Certificates and Articles of Incorporation/ Charter, Constitution, By-Laws and Amendments	Permanent
Fidelity Bonds	6 Years
Minutes of the Board of Directors Meetings and Resolutions; Materials Used in Board Meetings; Employee Benefits Administrative and Investment Committees, Resolutions and Supporting Materials	Permanent
Stock Certificates, Stock Transfers, and Stockholders' Records	Permanent
Stock Repurchase Program Documents	Fiscal Year +7
All Other Corporate Documents Not Specifically Identified Above	6 Years

RECORDS RETENTION GUIDELINES	
Effective: February 13, 2007	
Updated: November 26, 2012	
Series Description	Retention Period
<b>C. LEGAL RECORDS</b>	
Business Licenses/Permits	Active + 1
Case Files, Affidavits, Testimony/ Depositions, Briefs	Active + 1
Contracts, Leases and Other Agreements	7 Years after expiration License Agreements - Permanent (Note: Signed Contracts Must Be Entered in the Contracts Management Database (CMD) As Soon As Practicable After Signature)
Copyrights and Trademark Documents	Permanent
Deeds/ Titles	Term of Ownership + 6
Easement Records	Term of Ownership + 6
Incident Reports on Security Matters (CTPAT)	6 Years
Legal Correspondence Files	Active + 7
Litigation Files	Active + 7
Mortgages	6 Years after payoff
Patent Applications, Assessments and Related Files	Active + 6
Royalty Records	Active + 7
Trade Contracts	Trade Promotion Start Date + 3 Years
Trade Secrets	Permanent
All Other Legal Documents Not Specifically Identified Above	Active +6



RECORDS RETENTION GUIDELINES		
Effective: February 13, 2007		
Updated: November 26, 2012		
Series Description		Retention Period
<b>D. INSURANCE RECORDS</b>		
Worker's Comp/Employment Claim Files and Investigations		Active + 7 Term of Employment + 30 for claims involving occupational illness
All Other Claims including G/L Files and Investigations		Active + 6
Worker's Comp, G/L and Umbrella Policies		Permanent
All Other Liability Insurance Policies		Active + 6
First Party Insurance Policies (Property, Marine, Cargo, Boiler)		Active + 6
Actuary Documentation		Fiscal Year + 7
Self Insurance Filings		Fiscal Year + 7
Insurance Submissions and Marketing Materials		Fiscal Year + 7
PAC Documents		4 Years
Engineering Reports		Active + 3
MVR's		Active + 1 Year
BCP's		Active
Certificates of Insurance		Active + 7
Crisis Management Plan		Active
Surety Bonds		Permanent
All Other Insurance Documents Not Specifically Identified Above		Active + 6

RECORDS RETENTION GUIDELINES	
Effective: February 13, 2007	
Updated: November 26, 2012	
Series Description	Retention Period
<b>E. SAFETY, EMPLOYMENT AND HR RECORDS</b>	
Accident Reports/Logs	Incident Year + 5
Affirmative Action Plan	Active + 3
Audiometric Test Records (Noise Exposure)	Term of Employment + 30 Years
Confidentiality/ Invention Assignment Forms	Active + 6
Credit Card Approvals and Related Employee Agreements	Active
Disability, Unemployment and Sick Benefit Records	4 Years
Employment Contract	Active + 7
Employment Eligibility Forms (I-9) - must be kept separate from personnel files	3 Years After Hire Date or 1 Year After Termination (whichever is longer)
Employment Files/ Evaluation Forms	Active + 6 UNLESS records are required to support benefit plan eligibility, then follow retention under Plan Participant Records
Exposure and Medical Records	Active + 30 Years
Garnishments, Attachments and Assignments	Active + 6
Hazard Communication Rule & Process Safety Management Standard Training Documents and Compliance Materials	Active
Health and Safety Audits	Active
Health and Safety Bulletins	3 Years
Health and Safety Postings	Active Only
Internal Publications (including policies)	Active Only
Job Descriptions	3 Years or Active Only
Records of Chemicals Used (or MSDS's)	Active + 30 Years
Solicited Job Applications/ Resumes/ Cover Letters	3 Years
Organizational Charts	Active
OSHA Training Records	Active + 6
Payroll Registers and Records/ Tax and Earnings Records	Active + 7 UNLESS records are required to support benefit plan eligibility, then follow retention under Plan Participant Records
Plan Documents, SPDs (Summary Plan Description), SMMs (Summary of Material Modification) and Related Employee Communications and IRS Determination Letters	Permanent
Timecards/Time Sheets	4 Years
Form 5500s, Summary Annual Reports and Related Records	6 Years After Report Filing
Plan Participant Records and Pensionable Earnings Records (Pension/401k/Deferred Compensation/Retiree Medical)	Active + 7 Years After Final Payment or Distribution of Benefits UNLESS less than 5 years service (service as defined by Pension Plan)
HIPAA Privacy Records	6 Years
Retirement Investment Information for Investment Funds	7 Years
Investment Manager Agreements and Subscription Agreements	Active + 10
Other Benefit Asset Related Records and Information	7 Years
All Other Safety Employment and Human Resource Documents Not Specifically Identified Above	3 Years

RECORDS RETENTION GUIDELINES		
Effective: February 13, 2007		
Updated: November 26, 2012		
Series Description		Retention Period
<b>F. TRADING RECORDS</b>		
Master Agreements and Contracts		7 Years After Expiration
Purchase & Sale Confirms		Fiscal Year + 7
Trade Tickets		Fiscal Year + 7
Invoices		Fiscal Year + 7
Position Trading Reports/ Risk Reports		Permanent
Scale Tickets		Fiscal Year + 7
All Other Trading Documents No Specifically Identified Above		Fiscal Year + 7

RECORDS RETENTION GUIDELINES		
Effective: February 13, 2007		
Updated: November 26, 2012		
Series Description		Retention Period
<b>G. ENVIRONMENTAL RECORDS</b>		
Clean Air Act Permit and Associated Documents		5 years after permit expires
Clean Water Act Permit and Associated Documents		5 years after permit expires
Hazardous/Solid Waste Disposal Act (RCRA) Document		Life of Facility
Wastewater application data and studies		Life of Facility
Groundwater data and studies		Life of Facility
Bioassay studies		Life of Facility
Spill Prevention Control and Countermeasure Plan (SPCC)		Active
Nuclear Regulatory Commission (NRC) Related Documents		Life of License + 3
Asbestos Exposure & Medical Records		Term of Employment + 30 years
All Other Asbestos Records		Life of Facility
Respiratory Protection		30 years
Underground Storage Tanks		Life of Facility
Superfunds Amendment and Reauthorization Act (SARA) Form R & Tier I/II Reports		5 years from date of submission
Process Safety Information		Life of process
Process Hazard Analysis		Life of process
Hazardous Chemical Safety and Accident Prevention Audits		6 years
All Other Environmental Audits		Active + 1
Safe Drinking Water Act (SDWA) - Drinking Water		10 Years
All Other Environmental Records		5 Years

RECORDS RETENTION GUIDELINES	
Effective: February 13, 2007	
Updated: November 26, 2012	
Series Description	Retention Period
<b>H. MISCELLANEOUS RECORDS</b>	
Correspondence	None
E-Mail	See Email Retention Policy
Credit Ratings and Classifications	25 Months
Collection Notices/ Records	Active + 3 Years
Product Development/ Research/ Testing and Specifications	Permanent
Labeling	Active + 7 Years
HAACP Plan and Supporting Documents	Retain Plan and all supporting docs for Life of Plan Retain Supporting/Testing Documents 2 Years
SSOP's	SSOP Plan while Active Supporting docs for 6 months
Thermal Process Records	3 Years, First Year On-Site
Foreign Material Checks	6 Years
Consumer Complaint Records	6 Years
Regulatory Audits/Inspections	6 Years
Recall Records	6 Years
Broken Seal Records	6 Years
Other QA Records Not Already Identified	3 Years
Marketing Images/Promotional Videos/Printed POS and Trinkets/Proprietary Marketing Research	10 Years Paper Permanent Electronic
Advertising Materials/ Drawings/ Artwork/ Related Documents	10 Years Paper Permanent Electronic
Occupational Noise Exposure Measurement Records	2 Years
Blueprints	Permanent
Product Recall Contingency Plan/ Product Distribution Records	Shelf + Use Life of Product
Aircraft Operating and Maintenance Records	Life of Asset + 7 Years
Customs Documents (e.g. Entry Packets)	5 Years From Date of Entry for US (+3 Years On Drawback Claim Documents From Claim Payment Date) Current Year + 6 Years From Date of Entry for Canada
Organic Products Records	5 Years